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2 United States Attorney

ORIGINAL
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RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

11
12 UNITED STATES OF AMERICA,)

13 Plaintiff,)

14 v.)

15 BONNER METAL PROCESSING, LLC,)

16 Defendant.)
17

No. CR01-40140 CW

VIOLATIONS: 33 U.S.C. § 1319(c)(2)(A) -
Knowing Violation of a Pretreatment
Requirement; 33 U.S.C. §§ 1317(d) and
1319(c)(2)(A) - Operation of a Source in
Violation of Pretreatment Standards

OAKLAND VENUE

18 INFORMATION

19 The United States Attorney charges:

20 At all times relevant to this Information:

21 Federal Water Pollution Control Act

22 1. The Federal Water Pollution Control Act, commonly referred to as the Clean Water Act,
23 Title 33, United States Code, Section 1251 et seq., was enacted in 1972. Its purpose is the
24 restoration and maintenance of the chemical, physical and biological integrity of the Nation's
25 waters. In addition, the Clean Water Act was enacted to prevent, reduce, and eliminate water
26 pollution and to conserve the waters of the United States for the protection and propagation of
27 aquatic life and wildlife, recreational purposes, public drinking water, and agricultural and
28 industrial uses. To achieve these goals, the Clean Water Act regulates, among other things, the

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1 discharge of pollutants into sanitary sewer systems that lead to municipal sewage treatment
2 plants, also known as publicly owned treatment works ("POTWs").

3 Discharges to Sanitary Sewers and Sewage Treatment Plants

4 2. The City of Livermore Water Reclamation Plant ("Livermore WRP") is a POTW operated
5 by the City of Livermore. POTWs are sewage treatment systems designed to collect and treat
6 pollutants in municipal sewage and industrial wastes prior to discharge into waters of the United
7 States. A POTW includes the pipes and sewers connected to the plants, as well as the treatment
8 plant itself.

9 3. Industrial users that discharge pollutants that a POTW is incapable of treating, or which
10 may interfere with the operation of a POTW, are subject to specific national and local
11 prohibitions and "pretreatment" standards. A "pollutant" is defined to include, among other
12 things, sewage, garbage, chemical wastes, and industrial waste discharged into water.

13 4. The Livermore WRP has a National Pollutant Discharge Elimination System ("NPDES")
14 permit issued by the State of California that authorizes it to discharge wastewater to waters of the
15 State and the United States. As required by its NPDES permit, the Livermore WRP maintains a
16 pretreatment program to control and monitor pollutants discharged into its sewer system. That
17 program, approved by the State of California, contains local limits enforceable under the Clean
18 Water Act.

19 5. The United States Environmental Protection Agency ("USEPA") has established
20 pretreatment standards for industrial categories that have been determined to be the most
21 significant sources of pollutants. These are commonly referred to as "categorical standards".
22 The categorical standards promulgated for metal finishers are located at 40 C.F.R. Part 433,
23 Subpart A. These standards differentiate between "existing" and "new" sources. A source is
24 "new" for the purposes of categorical standards if its construction was commenced after the
25 publication of the proposed Pretreatment Standards.

26 Dilution of Wastewater is Prohibited

27 6. Except as specifically authorized, regulations promulgated by the USEPA prohibit
28 industrial users of POTWs from diluting their wastewater in order to achieve compliance with a
pretreatment standard or requirement.

1 7. The Clean Water Act makes it a crime for any person to knowingly violate a requirement
2 imposed in a pretreatment program approved under 33 U.S.C. § 1342(b)(8).

3 National Pretreatment Standards

4 8. The Clean Water Act provides for two kinds of pretreatment standards: national
5 pretreatment standards and "local limits." Local limits are developed by certain POTWs and
6 approved by USEPA, or by an authorized state, as part of a pretreatment program. One type of
7 national pretreatment standards, are known as "categorical standards" because they have been
8 developed for, and applied to, specific industrial categories. Categorical standards are numerical
9 pollutant reduction requirements or limitations for waste streams resulting from a particular
10 industrial process. These standards are designed to prevent the constituents of such waste
11 streams from passing through a POTW without treatment, or from interfering with the operation
12 of the POTW. These numerical limitations are technology-based, meaning that they are derived
13 from the capability of specific wastewater treatment technology to reduce pollutant discharges.

14 9. The national pretreatment standards, including those applying to the plating industry,
15 govern discharges in the City of Livermore to the Livermore WRP.

16 Local Pretreatment Standards

17 10. The Clean Water Act requires certain POTWs to develop and implement "local"
18 pretreatment standards or limits. Local limits are federally enforceable when approved as part of
19 a pretreatment program by USEPA or by an authorized state.

20 11. The Clean Water Act makes it a crime for any owner or operator of a source to which a
21 pretreatment standard or prohibition applies knowingly to operate such a source in violation of
22 any such pretreatment standard or prohibition.

23 Defendants

24 12. At all relevant times, defendant BONNER METAL PROCESSING LLC ("BONNER
25 METAL PROCESSING") owned and operated an electroplating facility located at 6052
26 Industrial Way (Suite A), Livermore, California, in Alameda County, within the Northern
27 District of California. Defendant BONNER METAL PROCESSING is regulated as a new
28 source under the pretreatment regulations because it was incorporated and began operations after
August 29, 1983.

13. At all relevant times, Robert K. Bonner ("Bonner") was the President of BONNER METAL PROCESSING.

COUNT ONE: (33 U.S.C. § 1319(c)(2)(A) - Knowing Violation of a Pretreatment Requirement)

14. Paragraphs 1 through 13 are incorporated herein by reference.

15. From on or about June 5, 1999 through and including on or about September 21, 1999, within the Northern District of California, the defendant

BONNER METAL PROCESSING, LLC

did knowingly violate a requirement imposed in a pretreatment program approved under 33 U.S.C. § 1342(b)(8) by diluting untreated wastewater prior to discharge into a POTW operated by Livermore WRP, all in violation of Title 33, United States Code, Section 1319(c)(2)(A).

COUNT TWO: (33 U.S.C. §§ 1317(d) and 1319(c)(2)(A) - Knowing Operation of a Source in Violation of Pretreatment Standards)

16. Paragraphs 1 through 13 are incorporated herein by reference.

17. On or about September 24, 1999, within the Northern District of California, defendant

BONNER METAL PROCESSING, LLC

did knowingly operate and cause to be operated a source in violation of pretreatment standards by discharging pollutants, namely, industrial wastewater containing nickel in concentrations exceeding 3.98 milligrams per liter ("mg/l"), into a POTW operated by Livermore WRP, all in violation of Title 33, United States Code, Sections 1317(d) and 1319(c)(2)(A); and Title 40, Code of Federal Regulations, Section 403.5(d).

DATED: August 2, 2001

ROBERT S. MUELLER, III
United States Attorney

Charles B. Burch
David W. Shapiro
DAVID W. SHAPIRO
Chief, Criminal Division

(Approved as to form: _____)
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